

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STEVEN J. RUSCH, LORIE A. RUSCH and
RUSCH EQUIPMENT SALES, LLC,

Plaintiffs,

v.

GARY McCARTAN,

Defendant.

ORDER

12-cv-521-slc

On July 24, 2012, this case was transferred to this court from the Western District of Kentucky. When plaintiffs Steven Rusch and Lorie Rusch originally filed their proposed complaint in Kentucky, plaintiff Steven Rusch included a request for leave to proceed *in forma pauperis*. I will construe plaintiff Lorie Rusch to also request leave to proceed *in forma pauperis* in this case. To make a determination as to whether both plaintiffs may proceed without prepayment of the filing fee, I need to have plaintiff Lorie Rusch submit her own affidavit of indigency. Accordingly, plaintiff Lorie Rusch may have until September 19, 2012 to submit an affidavit of indigency. I am enclosing a blank affidavit of indigency form to plaintiff Lorie Rusch with this order.

There is another matter that requires attention. The case caption of the complaint in this case lists Rusch Equipment Sales, LLC as a plaintiff, but the complaint is only signed by plaintiffs Steven Rusch and Lorie Rusch, neither of whom appears to be a licensed attorney. It is well established that a corporation may appear in the federal courts only through licensed counsel. *Rowland v. California Men's Colony*, 506 U.S. 194, 201-02 (1993); *Muzikowski v. Paramount Pictures Corp.*, 322 F.3d 918, 924 (7th Cir. 2003). This rationale “applies equally to all artificial entities,” *Rowland*, 506 U.S. at 202, including limited liability companies or partnerships. *E.g.*, *United States v. Hagerman*, No. 08-2670, slip op. at 4-5 (7th Cir. Sept. 26, 2008); *Lattanzio v. COMTA*, 481 F.3d 137, 140 (2d Cir. 2007); *Kipp v. Royal & Sun Alliance*

Personal Ins. Co., 209 F. Supp. 2d 962, 963 (E.D. Wis. 2002). Thus, plaintiff's Rusch Equipment Sales, LLC complaint has not been properly filed because it is not signed by an attorney. Plaintiff Rusch Equipment Sales, LLC will need to be represented by a licensed attorney in order to proceed in this case.

ORDER

IT IS ORDERED that

1. A decision as to whether plaintiffs Steven Rusch and Lorie Rusch may proceed *in forma pauperis* in this action is STAYED. Plaintiff Lori Rusch may have until September 19, 2012, in which to submit an affidavit of indigency and return it to the court. If plaintiff fails to provide this requested financial information in a timely fashion, then the court will deny her request for leave to proceed *in forma pauperis* for failure to show that she is indigent.

2. Plaintiff Rusch Equipment Sales, LLC may have until September 19, 2012, in which to enter a notice of appearance of a lawyer who will represent this plaintiff in this case. If, by September 19, 2012, plaintiff Rusch Equipment Sales, LLC does not file a notice of appearance of counsel, then this plaintiff will be dismissed without prejudice on the court's own motion to plaintiff Rusch Equipment Sales, LLC's filing suit by counsel at some later date.

Entered this 27th day of August, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Steven J. Rusch, et al..

Full name of plaintiff(s)

Case No. 12-cv-521-slc

(Provided by the clerk of court)

v.

Gary McMartin,

Full name of defendant(s)

**PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

I, Lorie A. Rusch, declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion. I answer the following questions truthfully and under penalty of perjury (additional pages may be added, if necessary, to provide complete information):

I. Personal Information

1) Are you currently incarcerated? ☐ Yes ☐ No

If "No," go to question 2. Complete all sections.

If "Yes," answer questions (a), (b) & (c), skip to Section IV. Complete sections IV and V.

(a) State the place of your incarceration and provide your prisoner identification number:

(place)

(number)

(b) Are you employed at the institution? ☐ Yes ☐ No

(c) Do you receive any payment from the institution? ☐ Yes ☐ No

If you are a prisoner, attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. Prisoners who are permitted to file in forma pauperis must pay the full filing fee in installments.

Personal Information - continued

- 2) Are you employed? ☐ Yes ☐ No
- 3) Are you currently married? ☐ Yes ☐ No
 If "Yes," is your spouse employed? ☐ Yes ☐ No
- 4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?
☐ Yes ☐ No

If "Yes," list them below:

<u>First and Last Initials (For Minor Children Only) or Name</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support Provided Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Income - If you are married, your answers ***must include your spouse's income.***

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total *monthly* income? \$ _____

Provide the name of your employer(s): _____

State your spouse's total *monthly* income? \$ _____

State the amount of money you have received from any other source in the last twelve months (e.g., rent payments, pension or insurance payments, gifts, inheritance, disability or workers' compensation payments). Please attach an additional sheet if necessary.

<u>Source of income</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____

III. Expenses - If you are married and/or have dependents, ***your expenses should also include your household's expenses.***

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance.)

1) Identify the following amounts that you pay per month:

☐ Rent or ☐ Mortgage \$ _____

Car payment(s) \$ _____

Alimony and/or court-ordered child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

☐ Yes ☐ No

If "Yes," list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

IV. Property - If you are married, your answers must *include your spouse's property*.

1) Do you own a car? ☐ Yes ☐ No If "Yes," list car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? ☐ Yes ☐ No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the residence(s)? \$ _____

IV. Property - continued

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques? ☐ Yes ☐ No

If "Yes," identify the property and approximate value(s).

<u>Property</u>	<u>Approximate Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

4) Do you have any cash or checking, savings, or other similar accounts? ☐ Yes ☐ No

If "Yes," state the total amount of such sums. \$ _____

5) Do you own any intangible property, including but not limited to real estate, stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401 k)?

☐ Yes ☐ No

If "Yes," state the nature of that property and approximate value(s).

V. Other Circumstances - Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

Date

Signature - Signed Under Penalty of Perjury